[1]* * * * * * *

[1][(7)] The Court in dealing with applications under this section shall have power to make such order as to costs as may be just.

[1][(8)] [2][Proceedings under this section may be taken against any person] in any district where he resides or is, or where he last resided with his wife, or, as the case may be, the mother of the illegitimate child.

Alteration in allowance.

489. [3][(1)] On proof of a change in the circumstance of any person receiving under section 488 a monthly allowance, or ordered under the same section to pay a monthly allowance to his wife or child, the Magistrate may make such alteration in the allowance as he thinks fit: Provided that if he increase the allowance the monthly rate of [4][five hundred] rupees in the whole be not exceeded.

[5][(2) Where it appears to the Magistrate that, in consequence of any decision of a competent Civil Court, any order made under section 488 should be cancelled or varied, he shall cancel the order or, as the case may be, vary the same accordingly.]

Enforcement of order of maintenance.

490. A copy of the order of maintenance shall be given without payment to the person in whose favour it is made, or to his guardian, if any, or to the person to whom the allowance is to be paid; and such order may be enforced by any Magistrate in any place where the person against whom it is made may be, on such Magistrate being satisfied as to the identity of the parties and the non-payment of the allowance due.

CHAPTER XXXVII.

DIRECTIONS OF THE NATURE OF A *Habeas Corpus*.

Power to issue directions of the nature of a *habeas corpus*.

491. (1) [6][Any High Court] may, whenever it thinks fit, direct—

(*a*) that a person within the limits of its [7][appellate criminal jurisdiction] be brought up before the Court to be dealt with according to law;

(*b*) that a person illegally or improperly detained in public or private custody within such limits be set at liberty;

(*c*) that a prisoner detained in any jail situate within such limits be brought before the Court to be there examined as a witness in any matter pending or to be inquired into in such Court;

(*d*) that a prisoner detained as aforesaid be brought before a Court-martial or any Commissioners [8]* * * for trial or to be examined touching any matter pending before such Court-maritial or Commissioners respectively;

(*e*) that a prisoner within such limits be removed from one custody to another for the purpose of trial; and

(*f*) that the body of a defendant within such limits be brought in on the Sheriff's return of *cepi corpus* to a writ of attachment.

---

[1] The original sub-section (7) was rep., and sub-sections (8) and (9) were re-numbered (7) and (8) respectively by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 131.

[2] Substituted by s. 131, *ibid.*, for "The accused may be proceeded against".

[3] Section 489 was re-numbered sub-section (1) of that section by s. 132, *ibid.*

[4] Substituted by Act 26 of 1955, s. 93, for "one hundred".

[5] Inserted by s. 132 of the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923).

[6] Substituted by the Criminal Law Amendment Act, 1923 (12 of 1923), s. 30, for "Any of the High Courts of Judicature at Fort William, Madras and Bombay".

[7] Substituted by s. 30, *ibid.*, for "ordinary original civil jurisdiction".

[8] The words "acting under the authority of any commission from the G. G. in C." rep. by the A.O. 1937.

(2) [1][The High Court] may, from time to time, frame rules to regulate the procedure in cases under this section.

(3) Nothing in this section applies to persons detained under the Bengal State Prisoners Regulation, 1818, Madras Regulation II of 1819, or Bombay Regulation XXV of 1827, or the State Prisoners Act, 1850, or the State Prisoners Act, 1858.

III of 1818. XXV of 1827. IV of 1850. II of 1858.

491A. [*Powers of High Court outside the limits of appellate jurisdiction.*] *Rep. by Act 17 of 1949, s 3(14).*

PART IX.

SUPPLEMENTARY PROVISIONS.

CHAPTER XXXVIII.

OF THE PUBLIC PROSECUTOR.

Power to appoint Public Prosecutors.

492. (1) The [2]* * * * * * *[3][4][State] Government] may appoint, generally, or in any case, or for any specified class of cases, in any local area, one or more officers to be called Public Prosecutors.

(2) [5]* * The District Magistrate, or, subject to the control of the District Magistrate, the Sub-divisional Magistrate, may, in the absence of the Public Prosecutor, or where no Public Prosecutor has been appointed, appoint any other person, not being an officer of police below [6][such rank as the [3][4][State] Government] may prescribe in this behalf] to be Public Prosecutor for the purpose of [7][any case].

Public Prosecutor may plead in all Courts in cases under his charge. Pleaders privately instructed to be under his direction.

493. The Public Prosecutor may appear and plead without any written authority before any Court in which any case of which he has charge is under inquiry, trial or appeal, and if any private person instructs a pleader to prosecute in any Court any person in any such case, the Public Prosecutor shall conduct the prosecution, and the pleader so instructed shall act therein, under his directions.

Effect of withdrawal from prosecution.

494. Any Public Prosecutor [8]* * * * may, with the consent of the court in cases tried by jury before the return of the verdict, and in other cases before the judgment is pronounced, withdraw from the prosecution of any person

---

[1] Substituted by the Criminal Law Amendment Act, 1923 (12 of 1923), s. 30, for "Each of the said High Courts".

[2] The words "G.G. in C. or the" rep. by the A.O. 1937.

[3] Substituted by the A.O. 1937 for "L.G.".

[4] Substituted by the A.O. 1950 for "Provincial".

[5] The words "In any case committed for trial to the Court of Session" rep. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 133.

[6] Substituted by s. 133, *ibid.*, for "the rank of Assistant District Superintendent".

[7] Substituted by s. 133, *ibid.*, for "such case".

[8] The words "appointed by the G. G. in C. or the L. G." rep. by s. 134, *ibid.*